

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of:

**Application for Certification
For the Three Mountain
Power Project**

Docket No. 99-AFC-2

**COMMITTEE ERRATA To April 13, 2001 PRESIDING MEMBER'S
PROPOSED DECISION**

The Committee published the Presiding Member's Proposed Decision (PMPD) for the Three Mountain Power Project on April 13, 2001. We then conducted a Conference to receive comments on April 26, 2001.

On April 26, 2001, Applicant and Staff appeared. There was no appearance by any other party, interested person or agency. Prior to the Conference, written Comments were submitted by Staff, Applicant, Intervenor Burney Resource Group (BRG), Intervenor Transmission Agency of Northern California (TANC) and Intervenor Black Ranch. Staff submitted additional written comments on May 1, May 3, and May 8, 2001. Intervenor BRG submitted formal written comments dated May 8, 2001. Applicant submitted supplemental written comments on May 10 and May 11, 2001. Intervenor California Unions for Reliable Energy (CURE) submitted written comments on May 4, 2001. Staff and Applicant also made additional oral comments at the Conference.

All written comments have been reviewed and all written and oral comments have been considered. In our view, the comments received do not necessitate the preparation of a revised PMPD. (See Cal. Code of Regs., tit. 20, § 1753.) We therefore submit these Errata, and minor syntax changes, to amend the contents of the April 13, 2001 document.

Under "INTRODUCTION":

Page 1, second paragraph, second sentence: Change the sentence to read: "Three Mountain Power, LLC, is entirely owned by Covanta Energy Americas, Inc. (formerly known as Ogden Power Corporation), an indirect subsidiary of Covanta Energy Group (formerly known as Ogden Energy Group), which is a subsidiary of Covanta Energy Corporation (formerly known as Ogden Corporation)."

Page 2, second full paragraph: Change "1,800-foot" in the second sentence to "2,600-foot" **and change** "88-mile" in the fourth sentence to "60-mile"

Page 9, second paragraph, second line: After the words "Burney Resource Group;" **insert the words** "Black Ranch;"

Page 10, first full sentence, change to read: "The Committee then scheduled the commencement of formal evidentiary hearings, which were conducted in Sacramento on March 7 and 21, 2000, in Redding on December 18 and 19, 2000, and in Sacramento on March 6, 2001.

Page 11, first paragraph: Change the words "a subsidiary of Ogden Energy, Inc. ("Ogden")" **to** "a subsidiary of Covanta Energy Group (formerly known as Ogden Energy Group)"

Under "PROJECT ALTERNATIVES":

Page 18: Delete the first two paragraphs and **substitute** the following:

"For projects such as the Three Mountain Power Project that have been exempted from the Notice of Intention requirements of Public Resources Code section 25540.6, the Commission is required to examine the "...feasibility of available site and facility alternatives ... which substantially lessen the significant adverse impacts of the proposal on the environment." (Cal. Code of Regs., tit. 20, § 1765.) This inquiry must also comply with California Environmental Quality Act (CEQA) Guidelines, which require an evaluation of the comparative merits of a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project as well as an evaluation of the 'no project' alternative. These alternatives must be considered unless we can make a finding that the project does not have any significant or potentially significant effect on the environment. (Cal. Code of Regs., tit. 14, § 15252.)

Even though our regulatory program is certified as being exempt from the requirement of preparing an Environmental Impact Report (Cal. Code of Regs., tit. 14, §§ 15250-15251), the range of alternatives we are required to consider is still governed by a rule of reason. This means that our consideration of alternatives may be limited to those that would avoid or substantially lessen any of the significant effects while continuing to attain most of the basic objectives of the project. We need not include those alternatives whose effects cannot be reasonably ascertained and whose implementation is remote and speculative. (See, e.g., Cal. Code of Regs., tit. 14, § 15126(d) (5).)

Under "COMPLIANCE AND CLOSURE":

page 32, in the first sentence under "ANNUAL COMPLIANCE REPORT: change the words "instead of" **to** "in addition to"

Under "FACILITY DESIGN":

Page 45, fourth line: Change the phrase "at the time construction actually begins" to read " at the time initial designs are submitted for review"

Page 46, second line: Change the words: "prior to the start of construction." to read "prior to the start of any increment of construction."

Under "POWER PLANT EFFICIENCY":

Page 69, Paragraph 2.: Change the "Highway 199" to "Highway 299"

Page 70, second full paragraph: Replace the sentence that reads "Although both the G-class turbine is slightly more efficient that the F-class turbine, their new technologies could potentially restrict TMPP's operating flexibility." to read "Although the G-class turbine is slightly more efficient that the F-class turbine, this new technology could potentially restrict TMPP's operating flexibility."

Page 71, first full paragraph, sixth line: Change the words "the same hybrid" to read "a hybrid"

Under "POWER PLANT RELIABILITY":

Page 75, first paragraph, next to last line: Change the words "the same hybrid" to read "a hybrid"

Under "TRANSMISSION SYSTEM ENGINEERING":

Page 85, Delete the second sentence of the second full paragraph that reads: "Cal-ISO will provide transmission service to the project as well as being the agency responsible for maintaining reliability of PG&E's interconnected grid." **and insert** "PG&E will provide interconnection service to the project. Cal-ISO will provide transmission service to the project and will be the agency responsible for maintaining reliability of their controlled grid."

Page 89, FINDINGS AND CONCLUSIONS, change Finding #2 to read: "2. The project's single circuit overhead line from the power plant switchyard to the PG&E switchyard will provide 530 MW of transfer capability."

Page 89, Condition of Certification TSE-1, subsection "a": Change the words "double bus configuration with 6 circuit breaker bays" to read "ring bus configuration with 5 circuit breaker bays"

Page 91, Condition of Certification TSE-3: In the first sentence, strike the words "and after"

Under "TRANSMISSION LINE SAFETY AND NUISANCE":

Page 97, Findings and Conclusions, #1. At the end of this finding, **add** "These lines are hereinafter referred to as the "project-related lines."

Under "AIR QUALITY":

Page 102, first full paragraph: change the sentence that reads: "Even if TMPP is not subject to the federal NSR requirements for some of the pollutants, it will be subject to federal Prevention of Significant Deterioration (PSD) review." **to read** "TMPP is subject to the SCAQMD NSR requirements for some of the pollutants, as well as federal Prevention of Significant Deterioration (PSD) review."

Page 122, last sentence on the page: after the words "needed or performed" **insert** "by staff"

Page 122, at the end of the page: after the citation to "(Ex. 64, p. 34.)" **insert** "As part of the required PSD analysis, applicant conducted a cumulative impact analysis. The cumulative impact analysis demonstrated that the cumulative impacts from the existing major facilities within six miles of the project, plus impacts from the project, would neither cause an exceedance of an ambient air quality standard nor consume the PSD increment. Staff determined that the cumulative impacts were not significant. (*Id.*, Ex. 66, Air Quality Testimony of V. L. Thompson, Attachments 20 and 25.)"

Page 124, last paragraph: Change the second sentence to read: "Based on the project's maximum calculated emissions, each permit unit must be equipped with BACT for NO_x, VOC, PM₁₀, SO_x, and CO."

Page 124, footnote 31: change entire footnote to read: "The terms State BACT and Federal Lowest Achievable Emission Rate (LAER) are used interchangeably in this decision. (Ex. 1, § 6.8.2.)"

Page 125, second paragraph: change the words "designed to maintain the turbine/duct burner emissions to 2.5 ppm NO_x" **to read** "designed to maintain the turbine/duct burner emissions to 2.5 ppm NO_x over a 1-hour averaging period"

Page 125, second paragraph: change the sentence that reads "We note that Applicant has proposed to operate the facility with a NO_x emissions level at 2 ppm for a three year demonstration." **to read** "We note that Applicant has proposed, for a period of three years commencing with commercial operation, to conduct a demonstration program to determine whether the facility can be reliably and continuously operated at a NO_x emission level of 2 ppm."

Page 131, first paragraph: change the word "monitoring" in the fourth line to "meteorological"

Page 133, Condition AQ-1: change the first word from "This" to "The" **and add** "issued by the Shasta County Air Quality Management District" after "(PSD Permit)". Also **delete** the "Note" and its contents from the Condition

Page 135, Condition AQ-9, delete the words "and annually thereafter" at the end of the verification.

Page 139, Condition AQ-21, replace the word "sooner" **with** "later" in the first line of the verification.

Page 143, Condition AQ-29, insert the words "site of the previously" prior to the word "existing" in the first sentence of the condition.

Page 147, Condition AQ-38, insert the words "and the CPM" following the word "APCO" in the third line of the Note 1 in the Condition.

Page 151, Condition AQ-45: change the words "commencement of construction." **to** "installation."

Page 152, Condition AQ-48: change the term "NO₂" in the first line to read "NO_x (reported as NO₂)"

Page 153, Condition AQ-48, insert the words "and the APCO" at the end of the last sentence in the verification.

Page 153, Condition AQ-50, replace the words "initial operation" with the word "installation" in the first line of the verification.

Page 154, Condition AQ-52: change the Note following the word "acrolein" **to read** "Note: Source testing for acrolein should only occur after the CARB Monitoring and Laboratory Division has provided a written recommendation for the method to be used for such testing. If there is no written recommendation at the time of the initial compliance test, the acrolein source test should be delayed until such recommendation is made."

Under "PUBLIC HEALTH":

page 161: After the first sentence, **insert:** "(See the **Hazardous Materials Management** section of this Decision.)"

Under "WASTE MANAGEMENT":

Page 187: In the first sentence under 3. Operation: a. Nonhazardous, after the phrase "used packing material," **insert** "softener and crystallizer waste,"

Page 187: change the word "wastes" in the first sentence of the last paragraph to "waste"

Under "BIOLOGICAL RESOURCES":

Page 202, first paragraph: Delete the two sentences that read "Confirmed or potential for occurrence of sensitive aquatic species including rough and bigeye marble sculpins. Aquatic and terrestrial mollusks were also documented." **Replace** those sentences with "Confirmed or potential for occurrence of sensitive aquatic species including rough and bigeye marble sculpins and aquatic and terrestrial mollusks were also documented."

Page 208, last paragraph (continuing to the top of page 209): Change the last sentence on the page to read: "The U. S. Fish and Wildlife Service has issued a Biological Opinion and Incidental Take Statement (Ex. 92) that requires TMPP to conduct a study to help determine the extent of avian collisions of bald eagle, spotted owl and waterfowl use areas."

Page 217, FINDINGS AND CONCLUSIONS: In Finding #7, **delete** "study)." and **insert** "study."

Pages 217-218, FINDINGS AND CONCLUSIONS: Combine and renumber findings #9 through 12, as follows:

9. Applicant's habitat compensation package is consistent with the U.S. fish and Wildlife Service (USFWS) requirements for impacts to listed species habitat.
10. To the extent feasible, Applicant will implement measures to avoid sensitive biological resources.
11. Applicant has obtained a Section 7 Biological Opinion from the USFWS.

Page 222, Condition of Certification, BIO-6: change both the **Condition and the Verification**, to read as follows:

BIO-6 Prior to the start of any site mobilization activities, the project owner shall acquire a Biological Opinion and Incidental Take Statement from the U.S. Fish and Wildlife Service and a letter from the California Department of Fish and Game that permits are not required from that agency for the construction and operation of the Three Mountain Power Project and implement any terms and conditions of those agencies.

Verification: No less than ninety days prior to the start of any site mobilization activities, the project owner shall submit to the CPM a copy of the final Biological Opinion and Incidental Take Statement from the U.S. Fish and Wildlife Service and a copy of a letter from the California Department of Fish and Game stating that permits from that agency are not required for this project. Any terms and conditions in the Statement and letter shall be incorporated into the final Biological Resources Mitigation Implementation and Monitoring Plan.

Page 222, Condition of Certification, BIO-7: In both the Condition and in the Verification, insert the words "on Forest Service land" **after** the words "the start of site mobilization activities"

Under "SOIL AND WATER RESOURCES":

Page 230, first line: Change the word " Ccertification" **to** "Certification"

Page 233, first full paragraph: strike the first sentence and **Change** the second sentence to read: "To understand the groundwater conditions of Burney Basin, it is important to understand the groundwater flow system I the Hat Creek Basin to the east and south."

Page 233, In the last sentence on the page (that carries onto the next page), after the word "The" insert the words "Applicant testified that the"

Page 234, after the first carryover paragraph, insert a new paragraph that reads: "In contrast to the Applicant, staff believes that the geologic, isotopic and hydrologic evidence indicates that it is possible that groundwater does flow between Hat Creek Basin and Burney Basin. It is generally agreed that the topographic divide between the two basins is low and poorly defined with no geologic barrier to groundwater flow, except for Brush Mountain. Staff believes that the evidence of groundwater inflow from the Hat Creek to Burney Basin is indicated by the isotopic spring and groundwater studies conducted by Dr. Rose. Staff concluded that the groundwater measurements, collected by the Applicant and Dr. Fox, indicate that groundwater gradients could cause inflow to Burney Basin from Hat Creek Basin, south of Brush Mountain, and outflow from Burney Basin to Hat Creek Basin, north of Brush Mountain. Based on this analysis, staff concluded that it is possible that a connection between the two basins south of Brush Mountain exists, which could be significant since groundwater flow in this area feeds Crystal Lake springs and could affect the Shasta Crayfish. (Ex. 65, pp. 70, 87-88, and 119-122) Both Staff and Three Mountain Power believe that their respective analyses are technically sound; however, both parties agree that there is some inherent uncertainty in any predictive analyses of future hydrological impacts due to the nature of the analyses. Such uncertainty therefore supports a finding that it is appropriate to require funding for mitigation measures that address the overall potential cumulative impact on biological resources. (Ex. 79, p. 2)"

Page 234, last full paragraph: In the last sentence, after the word "Decision", **insert** the words "regarding impacts to Burney Falls", **change** the phrase "is such exists" **to read** "if such exists" **and add** a new last sentence that reads "However, if Crystal Lake is connected to the Burney aquifer system, it may be impacted by groundwater use in Burney basin. (See discussion in the **Biological Resources** section of this Decision.)"

Page 237, last paragraph, change the third sentence to read: " TMPP will be permitted to use additional groundwater up to BMP's current ..."

Page 238, first full paragraph, third sentence: Change the entire sentence to read: "This will involve the use of a BWD-installed water meter at TMPP, and a meter to be installed and maintained by BMP at the BMP facility."

Page 238, first full paragraph: the reference that reads "(Ex. 53, pp. 318-319.)" **to read** "(Ex. 65, p. 76.)"

Page 239, first paragraph: Change the sentence that reads: "Therefore, the project's use of the 440,000 GPD (or 500 acre-feet per year) currently discharged to percolation ponds and ultimately to the regional aquifer is addressed in the water supply assessment of impacts, below." **to read** "Therefore, the project's use of the 440,000 GPD (or 500 acre-feet per year), that BWD is currently permitted to discharge to percolation ponds and ultimately to the regional aquifer, is addressed in the water supply assessment of impacts, below."

Page 240, first paragraph: Change the sentence that reads: "Given the extreme variability in hydraulic conductivity of wells in the Burney area, the likelihood of anisotropic conditions, and the lack of information on specific yield, the magnitude of drawdown in the project wells is very difficult to predict." **to read:** "Given the extreme variability in hydraulic conductivity of wells in the Burney area, the likelihood of anisotropic conditions, and the lack of information on specific yield, the magnitude of drawdown that the project will cause in adjacent wells is very difficult to predict."

Page 240, last paragraph: Change the fifth sentence to read: "A requirement for aquifer tests in the new project wells to determine the site-specific aquifer parameters and well interference in surrounding wells is contained in Conditions **Soils&Water-8** through **Soils&Water-14**."

Page 243, first sentence, second line: change "had" **to** "has"

Page 243, fifth sentence: change "product" **to** "produced"

Page 244, paragraph after Table 13: delete the phrase "nor would they require disposal as a California designated waste (Class I or II)." **and insert** "but they

would require disposal as a California designated waste due to their high salt content. TMPP has identified two suitable disposal sites. (See discussion in the **Waste Management** section of this Decision.)"

Page 246, last sentence: delete the words "to small springs, including Crystal Lake that" and **replace** them with "to springs, including the smaller springs and Crystal Lake springs, that"

Page 256, Condition of Certification SOIL&WATER-5: Delete the first sentence of the Condition and **replace it** with: "The project (TMPP) has reached agreements with California Unions for Reliable Energy (CURE) and with the California Department of Parks and Recreation, both of whom are Intervenor herein, regarding, *inter alia*, water resource matters."

Page 257, Condition of Certification SOIL&WATER-7: In the fourth line of the Condition of Certification, **change** the words "(approximately 500 acre-feet)." **to read** "(approximately 500 acre-feet/year)."

Pages 257-258, Condition of Certification SOIL&WATER-7: In the Verification portion of the Condition of Certification, **delete** the phrase "on an annual basis beginning within 90-days after the anniversary date of the start of recycled water use and continuing for the life of the project." **and replace it** with "in the Annual Compliance Report."

Page 261, Condition of Certification SOIL&WATER-11: At the end of the first sentence of the Condition, after the words " to the CPM" **insert** "or to the CPM approved organization or agency"

Page 266, Condition of Certification SOIL&WATER-13: In the third line from the bottom of the page, **delete** the word "therefor" that follows the word "documentation"

Page 267, Condition of Certification SOIL&WATER-14: In the Verification portion of the Condition of Certification, **delete** the last sentence and **replace it with** "Thereafter, the project owner shall include the results of the quarterly ground water level measurements in the Annual Compliance Report."

Under "CULTURAL RESOURCES":

Page 278, Condition of Certification CUL-1: In the Verification portion of the Condition of Certification, in the second paragraph, **change** "ays," to "days,

Page 278, Condition of Certification CUL-2: In the Condition portion of the Condition of Certification, in the first paragraph after the words "work areas", **delete** the second period (".")

Under “GEOLOGY AND PALEONTOLOGY”:

Page 296, under d. Expansion: Delete the sentence that reads: "The soil unit at the proposed power plant expansion site is the Kimberlina Fine Sandy Loam."

Page 298, FINDINGS AND CONCLUSIONS: Delete Finding #6 that reads: "Fault rupture may cause extensive damage to buried pipelines within a few hundred feet of the rupture." **and renumber** Findings 7 through 12 **to read** 6 through 11.

Pages 299-300, Condition of Certification GEO-1: In the Verification portion of the Condition of Certification, **change**, in **two** locations, the term "56 days" **to** "15 days"

Page 300, Condition of Certification GEO-2: In the Condition portion of the Condition of Certification, before the sentence "Prepare the Final Engineering Geology Report.", **insert** the numeral "3." and a tab space.

Page 300, Condition of Certification GEO-2: In the Verification portion of the Condition of Certification, **change** the term "56 days" **to** "15 days"

Page 301, Condition of Certification PAL-1: In the first line of the Verification portion of the Condition of Certification, **change** the term "ninety days" **to** "sixty days"

Under “LAND USE”:

Page 308: Change the sixth bulleted item of the first paragraph from: "Bordered to the southwest by the BWD owned and operated Burney Wastewater Treatment Plant, to the west by PG&E electrical transmission lines, and to the east by PG&E natural gas transmission lines. (Ex. 56, p. 85.)" **to read** "Bordered to the southwest by the BWD-owned and operated Burney Waste Water Treatment Plant, and bordered on all other sides by forested land. (Ex. 56, pp. 85-86.)"

Page 309, at the top of the page: Insert the word "and" **before** the phrase "a PG&E switchyard" and **Delete** the phrase "and waste discharge ponds"

Under “VISUAL RESOURCES”:

Page 329, first full paragraph, second sentence: Delete the words "In the past, a Shasta Sunset Dinner Train ran along this corridor, and up to five years ago," and **replace** them with: "Up to five years ago,"

Under "NOISE":

Page 342, first paragraph: after the phrase "... reported in the original (pre-wet/dry)" add "analysis by Applicant."

Page 343, line 12: Change "Condition **NOISE-6**" to "Condition **NOISE-7**."

Page 344, second paragraph: Delete paragraph beginning, "The loudest construction noise ..." and replace it with the following:

"The loudest construction noise is created by steam blows, which are necessary to flush piping and tubing of accumulated debris prior to start-up. However, the Applicant has confirmed to the Commission that it will use a new, quieter steam blow technology that uses lower steam pressure over a longer period. (Ex. 64, p. 92). This quieter steam blow technology complies with the noise standards in the Shasta County General Plan (*Id.*). In addition, Condition **NOISE-1** requires notification of neighbors prior to initiating the steam blow process."

Page 346, first paragraph, sixth line from top of page: change "remembered" to "renumbered"

Page 346, first paragraph: Revise the second to last sentence as follows: "We have also revised renumbered Condition **NOISE-5** to require multiple noise surveys during the first year of operation to gather accurate information when the various cooling configurations are employed, with an accompanying requirement of further mitigation if needed."

Page 348: Revise Condition **NOISE-2** and **Verification** as follows: "**NOISE-2:** Prior to the start of operation, the project owner shall install ceiling and wall insulation, multi-pane windows and an air conditioning system to the Hathaway residence (unless the owners of the Hathaway residence object to such installation, in which case the Applicant's demonstration to the satisfaction of the CPM that the Applicant has offered appropriate mitigation shall satisfy this condition)."

Verification: In the first annual compliance report after the start of operation the project owner shall include documentation certifying that mitigation has been applied to the Hathaway residence (either by installation of wall and ceiling insulation, multiple-pane windows and an air conditioning system, or by demonstration to the CPM that such installation was offered but refused by the owner of the Hathaway residence).

Page 348: Condition of Certification Noise-3: change the heading from "Noise-3" to "**NOISE-3**"

Page 349: Revise Condition **NOISE-5** as follows:

Line 16, **change** "...not exceed 48 dBA..." **to** "...not exceed 50 dBA..."

Line 18, **change** "...in excess of 48 dBA..." **to** "...in excess of 50 dBA..."

Line 20, **change** the sentence and numbered list beginning "The mitigation measures (to be employed as required)" **to read** as follows: "The mitigation measures (to be employed as required) may include, but not be limited to, providing air inlet silencers for the combustion turbines."

Dated: May 17, 2001

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

WILLIAM J. KEESE
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TMPP AFC Committee

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